UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re: Marcel Mays,

Debtor.
_______________________________/

Case No. 16-53658

Chapter 13

Hon. Maria Oxholm

RESPONSE BY THE STATE OF MICHIGAN DEPARTMENT OF TREASURY TO DEBTORS OBJECTION TO ITS CLAIM

Defendant, State Of Michigan, Department of Treasury, through its attorneys, Bill Schuette, Attorney General, and Moe Freedman, Assistant Attorney General responds as follows.

1. The Michigan Department of Treasury (Treasury) filed a proof of claim in this case that contained a Priority Tax Claim, and a General Unsecured Tax Claim for unpaid State, and City of Detroit taxes for 2015 .

2. On March 13, 2017 the Debtor filed an objection, claiming that the debtor did not receive income in 2015.

3. Treasury's claim was based on information it received by viewing the Debtor's Tax transcript with the IRS, which showed that the debtor did have State of Michigan and City of Detroit income tax filing requirement .

4. Debtor has attached an exhibit to the objection; IRS form claiming to IRS that a 1099 form was issued in error.

5. Treasury would need more information to amend or withdraw its claim

6. Debtor should provide Treasury with information that the IRS has in fact issued a redetermination and accepts that the Debtor did not have a filing requirement for 2105.

7. Treasury's claims are afforded *prima facie* validity. *In re Spohn*, 61 Bankr. 264 (Bankr. W.D. Wisc. 1986); *In re Circle J Dairy, Inc.* 112 Bankr. 297 (Bankr. W.D. Ark. 1989). Unless the debtor objects and tenders sufficient evidence to overcome the prima facie validity accorded the claims, the claims must be allowed. *Id.*

8. Under the Bankruptcy Code, the Debtor is required to prove the lack of validity of the supporting figures to calculate Treasury's debt. This burden my not be shifted from the debtor to the creditor. Bankruptcy rule 3001(f). See also *Raleigh v. Illinois Department of Revenue*, 530 U.S. 15; 120 S. Ct. 1951; 147 L.E.Ed.2d 13(2000).

Based on the above, the Michigan Department of Treasury respectfully requests that the Debtor's objection to Treasury's claims be denied.

Respectfully submitted,

Bill Schuette
Attorney General

/s/Moe Freedman
Moe Freedman (P74224)
Assistant Attorney General
3030 W. Grand Blvd., Suite 10-200
Detroit, MI 48202
Phone: (313) 456-0140

Dated March 20, 2017